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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,883	03/30/2001	Reiner Laus	7636-0022.30	5347

22918 7590 04/08/2005
PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

EXAMINER

RAWLINGS, STEPHEN L

ART UNIT PAPER NUMBER

1642

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20050405

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

11/11

Notice of Non-Responsive Amendment

1. The amendment filed February 2, 2005 is acknowledged; it is however not considered responsive to the Office action mailed November 2, 2004.

The amendment is considered non-responsive for the following reason:

Prosecution on the merits was closed by the Office action mailed November 2, 2004 in accordance with the practice under *Ex Quay/e*, 1935 C.D. 11, 453 O.G. 213.

In response to Office action, Applicant was required to cancel claims 12-19 or take other appropriate action, since claims 12-19 are drawn to non-elected subject matter.

By the amendment filed in response to the Office action, Applicant has sought to amend claim 12 and cancel claims 15-19, which would leave claims 12-14 pending in the application. However, because prosecution on the merits is closed, the merit of claims 12-14 will not be considered.

Although it is noted that Applicant has sought to amend claims 12-14 such that the claims depend from claim 7, which has been allowed, claims 12-14 will not be rejoined. Applicant's failure to have amended the claims during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims process claims has resulted in the loss of the right to rejoinder. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996).

2. Applicant is given a TIME PERIOD of **ONE (1) MONTH** from the mailing date of this notice within which to submit an amendment that is responsive to the Office action mailed November 2, 2004. This **ONE-MONTH time limit is not extendable**.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Rawlings, Ph.D. whose telephone number is

Art Unit: 1642

(571) 272-0836. The examiner can normally be reached on Monday-Friday, 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on (571) 272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen L. Rawlings, Ph.D.
Examiner
Art Unit 1642

slr
April 5, 2005



LARRY R. HELMS, PH.D.
PRIMARY EXAMINER